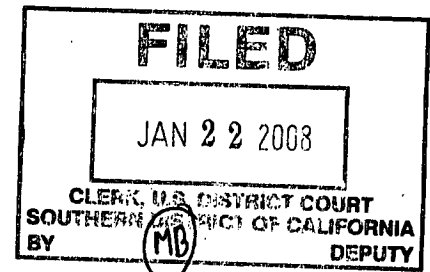


KAREN P. HEWITT
United States Attorney
EUGENE S. LITVINOFF
Assistant United States Attorney
California State Bar No. 214318
United States Attorney's Office
Federal Office Building
880 Front Street, Room 6293
San Diego, California 92101
Telephone: (619) 557-5790

Attorneys for Plaintiff
UNITED STATES OF AMERICA



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Criminal Case No. 07CR3162-L
)	
Plaintiff,)	
)	
v.)	STIPULATION OF FACT AND JOINT
)	MOTION FOR RELEASE OF
JESUS MUNOZ, JR. (1),)	MATERIAL WITNESSES AND
)	<u>ORDER THEREON</u>
Defendant.)	
)	(Post-Indictment Fast-Track Program)

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Eugene S. Litvinoff, Assistant United States Attorney, and defendant JESUS MUNOZ, JR., by and through and with the advice and consent of defense counsel, Paul Turner, Esq., that:

1. Defendant agrees to execute this stipulation on or before the disposition date and to participate in a full and complete inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to plead guilty to Count 1 of the Indictment which charges defendant with a non-mandatory minimum count of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii) and (v)(II).
2. Defendant agrees to plead guilty to the charge described above pursuant to the plea agreement on or before **February 11, 2008**.

1 3. The material witnesses, Fermin Tapia-Barrera, Avelino Sanchez-Merino, and Roberto
2 Ramirez-Hernandez, in this case:

3 a. Are aliens with no lawful right to enter or remain in the United States;

4 b. Entered or attempted to enter the United States illegally on or about October
5 21, 2007;

6 c. Were found in a vehicle driven by defendant at the Interstate-15 U.S. Border
7 Patrol Checkpoint, Murrieta, California, and that defendant knew or acted in reckless disregard of
8 the fact that they were aliens with no lawful right to enter or remain in the United States;

9 d. Were paying between \$1500 and \$2000 to others to be brought into the United
10 States illegally and/or transported illegally to their destination therein; and,

11 e. May be released and remanded immediately to the Department of Homeland
12 Security for return to their country of origin.

13 4. After the material witnesses are ordered released by the Court pursuant to this
14 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
15 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
16 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

17 a. The stipulated facts set forth in paragraph 3 above shall be admitted as
18 substantive evidence;

19 b. The United States may elicit hearsay testimony from arresting agents
20 regarding any statements made by the material witness(es) provided in discovery, and such testimony
21 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
22 of (an) unavailable witness(es); and,

23 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
24 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
25 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
26 waives the right to confront and cross-examine the material witness(es) in this case.

27 5. By signing this stipulation and joint motion, defendant certifies that defendant has

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Jesus Munoz, Jr. (1)

1 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
2 further that defendant has discussed the terms of this stipulation and joint motion with defense
3 counsel and fully understands its meaning and effect.


4 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
5 immediate release and remand of the above-named material witness(es) to the Department of
6 Homeland Security for return to their country of origin.

7 It is STIPULATED AND AGREED this date.

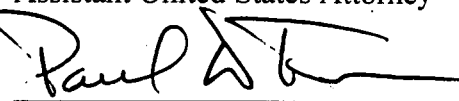
8 Respectfully submitted,

9 KAREN P. HEWITT
United States Attorney

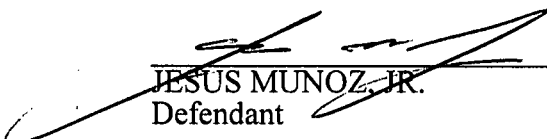
10
11 Dated: 1/22/08


EUGENE S. LITVINOFF
Assistant United States Attorney

12
13 Dated: 1-22-08


PAUL TURNER
Defense Counsel for Jesus Munoz, Jr.

14
15
16 Dated: 1-22-08


JESUS MUNOZ, JR.
Defendant

17
18
19 **ORDER**

20 Upon joint application and motion of the parties, and for good cause shown,

21 **THE STIPULATION** is admitted into evidence, and,

22 **IT IS ORDERED** that the above-named material witness(es) be released and remanded
23 forthwith to the Department of Homeland Security for return to their country of origin.

24 **SO ORDERED.**

25 Dated: 1/22/08


United States Magistrate Judge